

REMARKS

By this Amendment, applicants have amended claims 1 and 9 to further define and clarify the invention in order to overcome claim objections and rejections under 35 USC §112. Applicants believe the focus on perfume burst and explanation of how the burst defines a 20% increase in perfume concentration of the headspace, as the surfactant system is diluted and the surfactant micelles dissolve, also helps clarify how these compositions clearly differ from the cited prior art. More specifically as discussed below, only when partition coefficients, volatility constants and CMC are chosen in a specific way (i.e. so that PBI must be greater than about 3) is there achieved the remarkable, high headspace perfume concentrations of the invention.

Support for further specific definition of perfume burst in Claim 1 may be found for example, at page 3, lines 20-27 of the specification and no new matter is added in this regard.

Claim 9 has also been amended to clarify that modifying agents are in addition to surfactants also found in the diluent or continuous phase. This is clearly supported, for example, at page 18, lines 1-3.

It is believed that the amendments noted above overcome objections to the claim under 37 CFR §1.75 (c) as well as rejections under 35 USC §112 and it is respectfully requested that these objections be withdrawn in this regard.

At page 4 of the Office Action, the Examiner has rejected claims 1-5, 8 and 9 under 35 USC §102 (b) or alternatively under 35 USC §103 over US Patent No.

6,194,375 to Ness et al. Ness is said to disclose several of the perfumes used in the compositions of the invention and the Examiner suggests that composition may have the same fragrance burst. This rejection is respectfully traversed for reasons set forth below.

The Ness et al patent relates to perfume compositions (e.g. perfume particles) which comprise (a) organic polymers insoluble in water which carry the perfume component; and (b) further polymers (generally at the exterior of the perfume carrying particles) which may be part of an encapsulating shell or are used as stabilizers during the polymerization of the particles. While these specialized perfume compositions or particles may be used in a variety of products, such as personal wash bars (column 14, lines 56-59), household cleaning products (column 15, lines 17-21) and hair conditioning products (column 15, lines 30-33), there is no recognition whatsoever of the interaction of perfume characteristics (oil/water partition coefficient, volatility) and CMC of the surfactant system to produce perfume burst upon dilution. Indeed, some of the products (e.g. hard surface cleaners) may never be diluted at all and never obtain a perfume burst relative to undiluted product.

By contrast, the subject invention is at its heart a true selection patent. It unexpectedly identifies that only compositions with PBI ("perfume burst index") greater than about 3 will have the remarkable at least 20% enhancement in perfume headspace concentration that applicants have found. Further, a PBI of greater than about 3 can only be found in compositions where volatility and partition coefficient of the perfume, on the one hand, and CMC of the surfactant system, on the other hand, are specifically selected to achieve the number which applicants have found is required to obtain the desired effect.

Ness is silent regarding perfume burst or method to achieve such. Further, there is nothing in Ness which motivate any person of ordinary skill in the art to specifically select perfume and/or surfactant systems which would be capable of achieving the desired effect. Indeed, in the absence of any direction that this is a desired goal, the person of ordinary skill could formulate for years without knowing how to achieve such effect.

In short, the reference simply fails to teach or suggest anything close to what applicants have remarkably and unexpectedly accomplished through their previously unknown observation that when certain perfumes and certain surfactant systems are combined, spectacular perfume burst levels are achieved.

In view of the amendments and discussion above, it is respectfully requested that the rejection over Ness et al be withdrawn.

At page 5 of the Office Action, the Examiner has rejected the claim under the judicially created doctrine of obviousness- type double patenting over codepending US Serial No. 10/084, 907 and at page 6, the Examiner has rejected the claims under the judicially created doctrine of obviousness-type double patenting over US Serial No. 10/085,721.

In this regard, applicants enclose with this amendment a Terminal Disclaimer terminally disclaiming the term of any patent which issues on the claim of the subject application which would extend beyond the term of any claims which issue on either US Serial No. 10/084, 907 or US Serial No. 10/085,721.

In view of the Amendment and discussion above, including submission of Terminal Disclaimer, it is respectfully requested that the Examiner withdraws all rejections of the claims and that claims of the subject application be allowed.

If a telephone conversation would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided.

A handwritten signature in black ink, appearing to read 'R. Koatz', is positioned above the printed name.

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